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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,641

02/11/2004

Les T. Dooley

1312

40851

7590

07/08/2008

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

MAIL DATE

DELIVERY MODE

07/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/775,641

Applicant(s)

DOOLEY, LES T.

Examiner

MICHAEL E. BUTLER

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Notice of Non-Compliant Amendment

1. The proposed reply filed on 9/6/2007 has not been entered because it is unsigned.
2. The amendment to the claims filed on 9/6/2007 does not comply with the requirements of 37 CFR 1.121(c).

Amendments to the claims filed on or after July 30, 2003 must comply with new 37 CFR

1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of “canceled” or “not entered” may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of “currently amended,” and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of “currently amended,” or “withdrawn” if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as “withdrawn—currently amended.”

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(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, *i.e.*, without any markings in the presentation of text. The presentation of a clean version of any claim having the status of “original,” “withdrawn” or “previously presented” will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of “withdrawn” or “previously presented.” Any claim added by amendment must be indicated with the status of “new” and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of “canceled” or “not entered.”

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as “canceled” will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a “new” claim with a new claim number.

Examiners Amendment

3. As the statutory response period for correcting the 8/10/2007 notice of noncompliant amendment has otherwise lapsed and the previous 5 notice of noncompliant amendments were unsuccessful in bringing about a rule 121 compliant amendment, the Office has marked up the applicant’s latest amendment in conformity with the rule 121 requirements.

The following corrections were made:

In Claim 1:

Line 3: Properly showing the deletion of language present in the last entered claims omitted from the latest submission by adding-then striking through the language “The invention being”

In line 5 through the word “corner” in line 9 removing the underlining

In lines 6 and 7, replacing the periods with the commas previously present

From line 9 beginning with the word “of” through line 11 at the word “dispensing” - removing the underlining.

In line 11 removing the underlining under words: “such products”

At the end of line 11 placing a comma surrounded by brackets

In line 12 removing the underlining under “as plastic”

In line 12 Properly showing the deletion of language present in the last entered claims omitted from the latest submission by adding-then striking through the language “dispenser”

In Claim 2: Left and Right Parenthesis are added to enclose: claim 2 is cancelled

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim(s) 1 is/are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Use of exemplary claim elements including “such as” creates indefinite claim scopes as to whether an element is being claimed or not. Applicant should explicitly claim elements rather than use exemplary language.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claim(s) 1 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Groeneweg

6171439 which discloses all the claimed elements including:

A tab or tag being either part of the product being dispensed or being made from another source material, such as a plastic or poly strip or any other semi rigid or rigid materiel, being attached by adhesive or mechanical means during the manufacturing process (postage label, column 2 Line 6-50; column 3 Line 20-67 ; fig 5) to the proper corner or area of the sheet of the product to be dispensed on a cored or coreless log roll before being placed in a device for dispensing of such products, such as a plastic dispensing container (column 3 Line 20-67).

8. Claim(s) 1 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Martinsen US

2003/0071051A1 which discloses all the claimed elements including:

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A tab or tag being either part of the product being dispensed or being made from another source material, such as a plastic or poly strip or any other semi rigid or rigid material, being attached by adhesive or mechanical means during the manufacturing process (paragraph 21-28) (paragraph 21-28; fig 5).

9. Claim(s) 1 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Stetlcher et al.

4497420 which discloses all the claimed elements including:

A tab or tag being either part of the product being dispensed or being made from another source material, such as a plastic or poly strip or any other semi rigid or rigid material, being attached by adhesive or mechanical means during the manufacturing process (col. 1 Line 56-col. 2 Line 31)

to the proper corner or area of the sheet of the product to be dispensed on a cored or coreless log roll before being placed in a device for dispensing of such products, such as a plastic dispensing container (col. 1 Line 56-68).

Response to Amendments/Arguments

10. The applicant's amendment and arguments have been fully considered but they are unpersuasive in overcoming the rejections. Applicant's broadening the claim to encompass plural embodiments through alternative language expands the net of prior art which reads upon applicant's claim. Stamps and labels are sheet forms and as such the claim element reads on sheet elements as described in Desmond, Greneweg, and Steicher.

Regarding Groeneweg, the backing is attached to the sheets throughout. . Regarding Martinsen, the backing 24 is attached to the label-stamp 22. Stetlcher et al. has a backing 24 attached to the label 25.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. The Office would again like to reiterate the necessity of using the application number in any correspondence with any application so as to match up any response with the filewrapper. Non-identified responses substantially delay matching responses to the application filewrapper.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. E. B./

/Patrick H. Mackey/

Supervisory Patent Examiner, Art Unit 3653

Search Notes (continued)**Application/Control No.**

10/775,641

**Applicant(s)/Patent under
Reexamination**

DOOLEY, LES T.

Examiner

MICHAEL E. BUTLER

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3653

SEARCHED

Class	Subclass	Date	Examiner
221	70	6/11/2008	meb
	71		
	73		
	63		

INTERFERENCE SEARCHED

Class	Subclass	Date	Examiner

**SEARCH NOTES
(INCLUDING SEARCH STRATEGY)**

	DATE	EXMR
East DB Search	6/11/2008	MEB